

Remarks

By this amendment, the non-elected claims 4-11 have been canceled and a Terminal Disclaimer has been submitted to place this application in immediate condition for allowance. Currently, claims 1-3 are before the Examiner for consideration on their merits.

First, Applicants reference the telephonic interview of July 10, 2007 with Examiner Sheehan. As a result of this interview and submission of the 132 Declaration on October 22, 2004, the rejection based on 35 U.S.C. § 102(b) and the Jeyadevan et al. article is removed.

Second, the obviousness-type double patenting rejection is overcome by the submission of the attached Terminal Disclaimer.

Third, Applicants would like to traverse the requirement raised in the Office Action that a statement of common ownership is required in this application.

In review, the Examiner is requesting a statement that indicates that at the time of the invention of the instant application, common ownership existed between co-pending application no. 10/898,287 filed on July 26, 2004 (hereinafter "the co-pending application") and the instant application, filed on March 30, 2004. However, it is asserted this statement cannot be made since the co-pending application was filed after the instant application, and is not prior art against the instant application. At the time of the invention of the instant application, the co-pending application had not been filed.

Nevertheless, if the Examiner is considering the instant application to have a date of invention after the co-pending application, the Assignee, through the undersigned, represents that, at the time of the invention of the instant application, Dowa Mining Co., Ltd, the present assignee for this application and the co-pending application, commonly owned both the co-pending application and the instant application.

In light of the above arguments and statement regarding common ownership, it is submitted that the issue raised in the Office Action regarding common ownership has been resolved.

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To summarize, the removal of the Jeyadevan et al. article, the submission of the Terminal Disclaimer, and the remarks above regarding common ownership resolve all issues raised in the Office Action, and claims 1-3 are patentably distinct from the prior art.

Accordingly, the Examiner is requested to examine this application and pass claims 1-3 onto issuance.

If the Examiner believes that an interview would be helpful in expediting the allowance of this application, the Examiner is requested to telephone the undersigned at 202-835-1753.

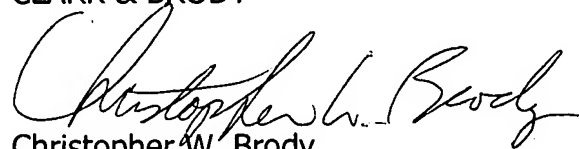
Again, reconsideration and allowance of this application is respectfully requested.

The above constitutes a complete response to all issues raised in the Office Action dated March 23, 2007.

A petition for a one month extension of time is hereby made. Payment of the petition fee of \$120.00 along with the \$130.00 fee for the Terminal Disclaimer is submitted in the form of a check in the amount of \$250.00.

Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
CLARK & BRODY

A handwritten signature in cursive script, appearing to read "Christopher W. Brody".

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